

Freeman v. Gregoire
Concurrence by Alexander, J.

No. 83349-4

ALEXANDER, J. (concurring)—Although I agree with the dissent’s general point that our state constitution forbids the use of motor vehicle funds for nonhighway purposes, I concur with the majority’s view that the petitioners’ request for a writ of mandamus should be denied. I reach this conclusion for two reasons. The first is that the lion’s share of the \$300,000 that the legislature appropriated in 2009 for an analysis of methodologies to value the reversible lanes on Interstate 90 has been expended. Indeed, the money was expended prior to the time this court entered an order to review the petition. Even assuming that expending money for the purpose of valuing these traffic lanes runs afoul of the constitution, the undeniable fact is that the action has been taken. Asking us to bar the named officials from expending the funds now is a bit like asking us to put the genie back in the bottle. While there may be other remedies available to the petitioners to restore the funds to the state treasury, the interests of other parties who are not in this action would be affected and, thus, these parties would need to be joined.

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Insofar as petitioners seek the writ to prohibit the Department of Transportation and the governor from “taking or authorizing any action with respect to the sale, lease, or occupancy of any portion of Interstate 90 to Sound Transit,” I agree with the majority that the relief requested is “too general to command issuance of the writ.” Pet. Against State Officer at 16; majority at 20.

AUTHOR:

Justice Gerry L. Alexander

WE CONCUR:

Karen G. Seinfeld, Justice Pro Tem.
